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HIGH COURT OF CHHATTISGARH: BILASPUR

WRIT PETITION (S) NO. 1717 OF 2007

PETITIONER

Hemant Kumar Shrivatri, aged about 48 years, S/o. Shri Babulal Shrivatri, Presently working as Draughtsman, Water Resources Department, Office of Engineer in Chief, Water Resources Department, Civil Lines, Raipur, R/o.Qtr. No. H-127, Shanti Nagar, Raipur, CG.

Versus

RESPONDENTS

- 1) State of Chhattisgarh, through the Secretary, Water Resources Department, D.K.S. Bhawan, Mantralaya, Raipur, CG.
- 2) Engineer-in-Chief, Water Resources Department, Sihawa Bhawan, Raipur, CG..
- 3) Executive Engineer, Water Resources Division No.2, Ambikapur, District Surguja, CG.

SB: HON'BLE SHRI JUSTICE SATISH K. AGNIHOTRI.

PRESENT:

Shri Sourabh Dangi, counsel for the petitioner.
Shri Sushil Dubey, Govt. Advocate for respondents/State.

ORDER

(Passed on 13th April 2007)

1. Petitioner, while working as Draughtsman in the office of Engineer-in-Chief, Water Resources Department, Raipur, vide order dated 4-7-2006 (Annexure P/1), along with 114 employees was transferred from Raipur to the Office of Executive Engineer, Water Resources Division No.2, Ambikapur. The petitioner was relieved in the month of March, 2007. He has filed this writ petition on 13-3-2007 impugning the transfer order dated 4-7-2006 (Annexure P/1) after a period of eight months.

2. Learned counsel appearing for the petitioner submits that the petitioner has a legitimate expectation in view of the fact that the officers under whom he was working had written to the Government to cancel his transfer, thus, the petitioner could not approach this Court in time. Learned counsel further submits that by not relieving the petitioner for such a long period, it cannot be said that there was any administrative exigency.

3. Next contention of the petitioner is that the petitioner is a Class III employee and his seniority is maintained at District level.

4. Per contra, Shri Dubey, learned counsel appearing for the respondents/State submits that the petitioner is a Class III employee. This is a transferable post and the contention of the petitioner with regard to service condition is not correct as seniority is maintained on the basis of his appointment and service, not on the basis of place of posting. Learned counsel further submits that administrative exigency does not mean that the transfer should be given effect to immediately as the transfer is a matter of public policy which is for the employer to decide the place of posting. The legitimate expectation is without any basis as no inter departmental order was either endorsed to him or communicated to him, thus, his contention deserves to be rejected.

5. I have heard learned counsel for the parties, perused the pleadings and documents appended thereto. It is evident that it is a simple case of transfer as the petitioner alone was not chosen for transfer, but 114 more persons were transferred in the beginning of July, 2006. itself. The transfer is not punitive in nature and it is for the employer to post a person in public policy and administrative exigency. Transfer is an incident of service.

6. The scope of interference under Article 226 of the Constitution of India in transfer matter is very limited. The transfer cannot be interfered with unless it is based on proved mala fide, the person making transfer is

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incompetent or transfer is contrary to the rules and regulations. It is not the case of the petitioner herein.

7) Thus, in view of the foregoing, the petition is dismissed. No order as to costs.

**Sd/-
Satish K. Agnihotri
Judge**

Raju